

## **REMARKS**

Claims 1-11 and 14-43 are pending, claims 12 and 13 having been previously cancelled, and claims 3, 10, 11, 16-28 and 34-37 having been withdrawn from consideration. Claims 1, 4 and 29 are amended herein. Support for the amendments may be found in the Specification at col. 11, lines 1-12, for example. No new matter is submitted. Accordingly, entry and consideration of the amendment is respectfully requested.

This response is submitted in response the Final Office Action mailed May 2, 2006, to request reconsideration of the rejection of claims set forth therein. In the event the Examiner determines that the foregoing amendments do not place this application in condition for allowance, it is respectfully requested that the above amendments be entered to place the claims in better form for consideration on appeal should an appeal be pursued in this matter.

In Items 2 and 3, respectively, of the Office Action, claims 1, 2, 7-9, 14, 15, 29-33, and 41-43 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,117,147 to Simpson, et al. (hereafter “Simpson”) in view of U.S. Patent Publication No. 2001/0044631 to Akins, et al. (hereafter “Akins”), and claims 4, 5, 38 and 39 are rejected under 35 U.S.C. 103(a) as allegedly unpatentable over the combination of Simpson and Akins in view of U.S. Patent No. 6,019,778 to Butters, et al (hereafter “Butters”). The rejections are respectfully traversed and are addressed together immediately below.

Applicants’ independent claim 1 recites a device for creating an anastomosis between first and second vessels comprising, *inter alia*, an extravascular body having an outer surface and an inner surface, the inner surface forming an opening configured to contact a portion of the first vessel received therein, first adhesive securing means for securing at least an end of the first vessel to the opening, and second securing means for securing a portion of the

second vessel to a corresponding portion of the outer surface of the body such that a hole formed in the portion of the second vessel is in fluid communication with the first vessel. Applicants' independent claim 29 recites a method for creating an anastomosis between first and second vessels comprising, *inter alia*, adhesively attaching a portion of the first vessel to an extravascular body having an opening therethrough, the opening being configured to receive and contact the portion of the first vessel and the extravascular body further comprising an outer surface at least a portion of which is configured to contact a portion of the second vessel, and attaching the portion of the second vessel to the corresponding portion of the outer surface of the body, and creating an anastomosis between the first and second vessels through the opening in the body. In both of independent claims the extravascular body is recited and is comprised at least partly of resorbable sponge material. All other pending claims depend directly or indirectly from claims 1 and 29.

Simpson discloses a device 14 for reinforcing an anastomotic site and vascular graft vessel 10. The device 14 is comprised of a cuff 18, a body 16 and a sleeve 12, whereby an outer surface of a cuff 18 is adhered to an anastomotic site 24 (col. 3, lines 28-31 & Figs. 2, 3, 4B& 5A). The body 16 is then adhered to the cuff 18, and the sleeve 12 is then adhered to the body 16 (col. 3, lines 59-61 & Fig. 4A). The sleeve 12, body 16 and cuff 18 thus receive the graft vessel 10 and help orient the graft vessel relative to the anastomotic site 24, but do not adhesively secure the graft vessel 10 to any portion thereof. Simpson thus fails to teach or suggest the combination of features recited in each of independent claims 1 and 29, from which all other pending claims directly or indirectly depend.

The Office Action (Items 2 and 4) contends that Simpson's friction fitting of the graft vessel 10 against an inner surface of the cuff 18 is readily modified to use the adhesive

disclosed in the newly applied reference to Butters. In particular, the Office Action contends that an outer surface of a conduit 16 of Butters is adhesively secured to an inner surface of a device (junction segment 22), relying on Butters, col. 7, lines 32-38 per the Office Action. However, Butters more accurately discloses the conduit 16 therein as attached to the junction segment 22 that is disposed in the vein 14 (Butters at col. 7, lines 32-38). The conduit 16 is thus attached to the junction segment 22, *and not to the vein 14*, using sutures, staples or bio-adhesives (emphasis added, relying on the same passages cited in the Office Action). Thus, Butters does not overcome the deficiencies of Simpson with respect to adhesively securing a first vessel to an extravascular body for creating an anastomosis between first and second vessels as recited in each of Applicants' independent claims 1 and 29.

The Office Action further concedes that Simpson does not teach the resorbable features recited in Applicants' independent claims 1 and 29. Akins is thus applied for the resorbable aspect of its anastomotic device. Akins however, as asserted previously, teaches an *intravascular* device 1 (emphasis added) that fails to overcome the deficiencies of Simpson detailed above. In particular, in the absence of an extravascular body, Akins necessarily fails to disclose adhesively securing at least an end or portion of the first vessel to an extravascular body, as recited in each of Applicants' independent claims 1 and 29. Notwithstanding any assertions to the contrary, none of Simpson, Akins or Butters, singly, or in combination, suggest adhesively securing an end or portion of a first vessel to an *extravascular* resorbable body to which a second vessel is also secured to create an anastomotic site between the first and second vessels, as recited in Applicants' independent claims 1 and 29. Nor is there any motivation to combine the resorbable aspects of Akins with Simpson, as they comprise exactly opposite applications, i.e., intravascular (Akins) versus extravascular (Simpson), nor the adhesive securing of a conduit to a

junction segment of Butters with Simpson, as they too comprise exactly opposite applications, i.e., intravascular (Butters) versus extravascular (Simpson).

Accordingly, withdrawal of the 35 U.S.C. §103 (a) rejection of claims 1, 2, 4, 5, 7-9, 14, 15, 29-33, 38, 39 and 41-43 based on the combination of Simpson and Akins is respectfully requested.

In item 6 of the Office Action, claims 6 and 40 are rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Simpson in view of Akins, and further in view of U.S. Patent Publication No. 2002/0065545 to Leonhardt, et al.(hereafter “Leonhardt”). The rejection is respectfully traversed.

Independent claims 1 and 29 of applicants’ invention are discussed above, from which claims 6 and 40 indirectly respectively depend. Likewise, Simpson and Akins are discussed above. Leonhardt is applied for teaching a balloon catheter for urging inner member towards outer members, but fails to overcome the deficiencies of Simpson and Akins as detailed above. Accordingly, withdrawal of the 35 U.S.C. §103(a) rejection of claims 6 and 40 based on the combination of Simpsons, Akins and Leonhardt is respectfully requested.

With respect to the Response to Arguments set forth in Item 5 of the Office Action, Applicants maintain that Simpson does not teach or suggest an extravascular body to which an end or portion of a first vessel is adhesively secured for enabling fluid communication between the first vessel and a second vessel also secured thereto, as recited in Applicants’ independent claim 1, nor such an extravascular body to which an end or portion of the first vessel is adhesively secured for creating an anastomosis between the first vessel and a second vessel also in contact with the body as recited in Applicants’ independent claim 29. The vessel 10 of Simpson may be received in the intravascular body 18 of Simpson, but the vessel 10 is nowhere

identified or suggested as being adhesively secured thereto, as conceded in the Office Action. Moreover, Simpson is the only intravascular device disclosed among the references applied in the Office Action. Thus, notwithstanding comments to the contrary, nothing in the applied reference suggest comprising such an extravascular device of resorbable material as recited in each of Applicants' independent claims 1 and 29.

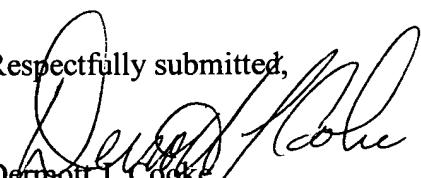
Applicants submit that the claims presented are patentable. Accordingly, prompt allowance of this application is respectfully requested.

Should the Examiner determine that anything further is desirable to place this application in even better form for allowance, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

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